
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS FELIPE FELIX-CAMPOS,

Defendant.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:23-cr-131-CW
Judge Clark Waddoups

This matter is before the court on a stipulated motion for Defendant Luis Felipe Felix-Campos to be sentenced via videoconferencing. Mr. Felix-Campos is in custody in Pahrump, Nevada, and he will have to move his personal belongings if he is transported to Utah for sentencing. Additionally, Pahrump is approximately 500 miles away from this court.

The cost and time of transport, coupled with the disruption in the defendant's accommodations, are valid concerns and Mr. Felix-Campos' request to be sentenced by videoconferencing is reasonable. The court, however, lacks the authority to grant his motion.


Rule 43(a)(3) of the Federal Rules of Criminal Procedure requires a defendant to be present at sentencing, unless the "defendant is voluntarily absent during sentencing." Fed. R. Crim. P. 43(c)(1)(B). Although a defendant can waive appearance, the Tenth Circuit Court of Appeals has held that even in the face of "logistical burdens," Rule 43 does not permit "video conferencing for sentencing," and it is "not within the scope of a district court's discretion" to vary from the rule. *United States v. Torres-Palma*, 290 F.3d 1244, 1248 (10th Cir. 2002).

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) temporarily “created a statutory exception to the physical presence requirement under Rule 43 and Rule 53’s general ban on videoconferencing of criminal proceedings.” *United States v. Leroux*, 36 F.4th 115, 120 (2d Cir. 2022). Because the CARES Act has expired, that exception is no longer applicable. Accordingly, unless the defendant provides the court with contrary legal authority, the court is precluded from allowing a defendant to be sentenced via videoconferencing.

For the reasons stated above, the court denies the Mr. Felix-Campos’ Motion to be Sentenced by Video (ECF No. 37).

DATED this 28th day of September, 2023.

BY THE COURT:


Clark Waddoups
United States District Judge